

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1569-2004
 : (04-11,569)
 vs. :
 : CRIMINAL DIVISION
 :
 ANTHONY ROYAL, :
 Defendant : 1925(a) Opinion

**OPINION IN SUPPORT OF ORDER IN
COMPLIANCE WITH RULE 1925(a) OF
THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this Court's judgment of sentence dated September 1, 2005 and docketed September 13, 2005. The relevant facts follow.

On September 24, 2004, Appellant was arrested and charged with criminal conspiracy, possession with intent to deliver cocaine, delivery of cocaine, possession of cocaine, possession of drug paraphernalia, and criminal use of a communication facility. On March 8, 2005, Appellant pleaded guilty to count 3, delivery of cocaine. Appellant was accepted in the Drug Court Program, but he refused to be placed on the program because he was afraid he could not comply with the program's requirements due to various medical conditions and mental health issues. On September 1, 2005, the Court sentenced Appellant to incarceration in a State Correctional Institution for a minimum of 13 months and a maximum of 5 years.¹

¹ While preparing this Opinion, the Court realized there was a typographical error in the sentencing order. The sentencing order states that Appellant's minimum sentence is 15 months; however, the Court indicated at the sentencing hearing that the minimum sentence shall be 13 months. The Court is issuing an amended order to correct this typographical error.

On September 30, 2005, Appellant filed a notice of appeal. The sole issue raised on appeal is that the Court failed to adequately consider Appellant's mental health and physical problems in imposing sentence. The Court cannot agree.

Appellant pleaded guilty to a delivery, which involved 2.7 grams of cocaine. The offense gravity score (OGS) for this conviction was 7. Appellant had a prior record score (PRS) of 2. Therefore, the sentencing guidelines indicated a standard minimum guideline range of 12-18 months incarceration. The Court sentenced Appellant to a minimum of 13 months, which is at the bottom end of the standard range. Prior to sentencing, the Court sent Appellant to Camp Hill for a 60-day evaluation so the Court could get further information about Appellant's mental health issues. The Court reviewed the evaluation and discussed portions thereof on the record. N.T., September 1, 2005, at 7-9. Appellant expressed dissatisfaction with his treatment at the county prison and indicated that while he was at Camp Hill some of his medications were changed and he felt pretty good. Id. at 12-13. The Court believed that Appellant would not be suitable for incarceration in the county prison and that his mental health problems would be best handled through the state correctional system. Id. at 16. The Court also recommended that the Department of Corrections consider placing Appellant in a community corrections facility that would address his mental health issues. Id. at 17; see also Sentencing Order dated 9/1/2005, para. 2.

In sum, the Court considered Appellant's mental health and physical problems, found that they could be best handled by the state correctional system and did everything in its power to encourage the Department of Corrections to place him in a community corrections facility or to send him to an institution that could address his mental health problems.

DATE: _____

By The Court,

Kenneth D. Brown, P. J.

cc: Kenneth Osokow, Esquire (ADA)
James Protasio, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)